

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 304

October 7, 1998, 2:07 p.m.
Page S-11669 Temp. Record

INTERNET TAX FREEDOM ACT/Study of Sales and Use Taxes

SUBJECT: Internet Tax Freedom Act . . . S. 442. McCain motion to table the Hutchinson modified amendment No. 3760 to the McCain/Gregg amendment No. 3722.

ACTION: MOTION TO TABLE FAILED, 30-68

SYNOPSIS: The Finance Committee substitute to S. 442 (both the Commerce Committee and the Finance Committee reported versions of the bill), will impose a 2-year moratorium beginning July 29, 1998 on certain State and local taxation of online services and electronic commerce (the Commerce Committee substitute would impose a 6-year moratorium), and will establish an advisory commission on electronic commerce to study the issue and make recommendations during that moratorium.

The McCain/Gregg amendment would direct the advisory commission to examine model State legislation: that "would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes"; and that "would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of taxation." (A "use" tax refers to a tax that requires a resident of a taxing jurisdiction to pay for using a purchased item in that jurisdiction. For example, Massachusetts has a 5-percent use tax; any item that has been purchased on which less than 5 percent sales tax has been paid is taxed the difference by the use tax. Thus, if an item is purchased in another State with a 3-percent sales tax rate, and it is then used in Massachusetts, a 2-percent use tax is due. States may not require out-of-State businesses to collect sales and use taxes for them, but they are still owed by the purchasers.)

The **Hutchinson modified amendment** would add that one of the specific issues that the advisory commission (that would be created by this bill) would study would be the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on retail businesses and on State and local governments. That examination could include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers.

(See other side)

YEAS (30)		NAYS (68)				NOT VOTING (2)	
Republicans (20 or 36%)	Democrats (10 or 23%)	Republicans (35 or 64%)		Democrats (33 or 77%)		Republicans (0)	Democrats (2)
Burns	Boxer	Abraham	Hutchinson	Akaka	Harkin		Glenn ⁻²
Campbell	Dodd	Allard	Hutchison	Baucus	Inouye		Hollings ⁻²
Coats	Kerry	Ashcroft	Inhofe	Biden	Johnson		
Collins	Kohl	Bennett	Jeffords	Bingaman	Kennedy		
Craig	Lautenberg	Bond	Lott	Breaux	Kerrey		
Faircloth	Lieberman	Brownback	Lugar	Bryan	Landrieu		
Frist	Moseley-Braun	Chafee	Mack	Bumpers	Leahy		
Grams	Murray	Cochran	Murkowski	Byrd	Levin		
Gregg	Torricelli	Coverdell	Nickles	Cleland	Mikulski		
Hagel	Wyden	D'Amato	Roberts	Conrad	Moynihan		
Kempthorne		DeWine	Roth	Daschle	Reed		
Kyl		Domenici	Santorum	Dorgan	Reid		
McCain		Enzi	Sessions	Durbin	Robb		
McConnell		Gorton	Specter	Feingold	Rockefeller		
Shelby		Gramm	Thomas	Feinstein	Sarbanes		
Smith, Bob		Grassley	Thurmond	Ford	Wellstone		
Smith, Gordon		Hatch	Warner	Graham			
Snowe		Helms					
Stevens							
Thompson							

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

During debate, Senator McCain moved to table the Hutchinson amendment. A motion to table is not debatable; however, some debate preceded the making of the motion. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

NOTE: After the vote, the Hutchinson amendment, and the underlying McCain/Gregg amendment, as amended, were adopted by voice votes.

Those favoring the motion to table contended:

The advisory commission being created by this bill should focus solely on the issue of Internet taxation, with the goal of coming up with clear, uniform, and nondiscriminatory taxation policies. Otherwise, with over 30,000 taxing jurisdictions in this country, we risk strangling commerce on the Internet in its infancy with a tangle of new taxes. The commission should not be broadened to include the peripheral issue of how all interstate commerce interacts with State and local sales taxes. The subject of how Internet, cable, catalog, and telephone sales across State lines affect sales taxes is certainly important, but it is a separate subject, and the commission does not need to examine it in order to decide how to come up with uniform and fair Internet taxing policies. Further, the interaction of sales taxes and interstate sales has already been studied extensively. We know of a study by the League of Cities, and of another by the Center for Budget and Policy Priorities, and another by the National Governors' Association. The commission will already have more than enough complex issues to analyze without the addition of this new requirement to study a separate issue. We therefore urge our colleagues to table the Hutchinson amendment.

Those opposing the motion to table contended:

We think that the Hutchinson amendment offers a fair compromise on the issue of interstate sales and use taxes. Internet purchases are only at \$8 billion yearly now, but they are expected to reach \$300 billion yearly by as early as 2002. People may just purchase \$300 billion more worth of goods in 2002 than they would have purchased had the Internet not existed, or, alternatively, they may buy goods from Internet companies that they would have purchased from other companies if the Internet had not existed. At this point, we really do not know how much the growth of Internet commerce will be at the expense of other forms of commerce. For instance, it may end up wiping out a lot of mom-and-pop stores. State and local taxing authorities that rely on the sales tax are justifiably concerned that competition from Internet commerce may end up destroying the in-State businesses from which they are able to collect taxes. States are not currently able to force Internet companies to collect any sales or use taxes that are due. Many of our colleagues say that the advisory commission should focus only on Internet commerce. We think that would be a mistake, because such commerce does not occur in a vacuum. It may well have huge effects on State and local governments and on other forms of commerce. The Senate earlier rejected a Bumpers amendment that would have allowed them to collect such taxes (see vote No. 296). Many of us who support this amendment opposed the Bumpers amendment because we did not believe that the case had been made that it was necessary. We have proposed this amendment to find out. With the Hutchinson amendment, we are asking for nothing more than information. We urge our colleagues to support this reasonable, compromise amendment.